

## Investigating Claims of Workplace Discrimination and Harassment Summer Session 2024

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Course #: 38:578:610:T1 Topics in LER  
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Office Hours by appointment

**COURSE DESCRIPTION:** The course will provide an in-depth exploration of the principles and methods involved in investigating claims of workplace discrimination and harassment. This course will also review the various laws that protect workers from discrimination by on protected categories, including race, color, sex, religion, national origin, age, and disability. We will also address the litigation of employment discrimination claims and cover both union and employer issues in investigations. Students will develop the skills necessary to conduct fair, thorough, and impartial investigations, ensuring compliance with relevant laws, regulations, and organizational policies. Through case studies, hypothetical exercises, and real-world scenarios, students will learn how to effectively gather evidence, interview witnesses, assess credibility, and make sound determinations. Emphasis will be placed on promoting a culture of respect, equity, and accountability in the workplace.

### **REQUIRED READING:**

Diane Pfadenhauer, SPHR, Esq., *Workplace Investigations, Discrimination and Harassment* (2009)

Lisa Guerin, JD, *The Essential Guide to Workplace Investigations*, 6<sup>th</sup> Edition, NOLO (July 2022)

Deborah C. England, Esq., *The Essential Guide to Handling Workplace Harassment and Discrimination*, 5<sup>th</sup> Edition, NOLO (Sept. 2021)

**COURSE MATERIALS:** I have linked the course material on the Canvas course website. You are welcome to purchase the books noted above but that is not required. I reserve the right to supplement, substitute, and/or modify the listed reading selections and all assignments listed in the course syllabus.

### **LEARNING OBJECTIVES**

Students who successfully complete this course will meet the following official learning objectives of SMLR and MLER:

- Communicate effectively at a level and in modes appropriate to an entry-level professional.
- Demonstrate an understanding of how to apply knowledge necessary for effective work performance.
- Apply concepts and substantive institutional knowledge, to understanding contemporary developments related to work;
- Understand the legal, regulatory, and ethical issues related to their field.

### **ADDITIONAL COURSE OBJECTIVES FROM THE INSTRUCTOR**

- Understand the legal framework and key concepts related to workplace discrimination and harassment.
- Demonstrate ability to comprehend court decisions on employment discrimination and harassment issues.
- Apply theoretical knowledge and practical skills to case studies, simulations, and real-world scenarios.
- Learn the principles of conducting fair and impartial investigations.
- Explore effective communication and interview skills for interacting with complainants, respondents, and witnesses.
- Review techniques for gathering, analyzing, and documenting evidence relevant to discrimination and harassment investigations.

**COURSE MATERIALS:** Each week, you will have access to the videos, readings, and other materials on the Canvas site. Please note that additional readings and/or other materials not listed on the syllabus may also be posted and required.

### **ACADEMIC INTEGRITY**

You are responsible for understanding and following the Rutgers University Policy on Academic Integrity. Information on the policy is available here:

<http://academicintegrity.rutgers.edu/academic-integrity-policy/>

**PLAGIARISM:** The use of another person's ideas without proper citation is plagiarism and unacceptable. It can result in a failing grade and disciplinary action through University channels. The same is true for any other form of cheating. For information about the proper citation of written and web-based material, please read "Documenting Sources" and "Correct Forms for Citation," available on the Canvas site for this course. For this class, we will use the Chicago Style.

### **Artificial Intelligence (AI) is NOT PERMITTED**

Use of AI, including but not limited to ChatGPT, is not permitted in any stages of the writing process on any assignment. All work submitted in this course must be the student's own and created with the aid of impermissible technologies (such as AI), materials, or collaborations.

Regarding AI: The Rutgers University Code of Conduct specifies as follows:

<https://policies.rutgers.edu/10213-currentpdf> Some assignments in this course will be processed through Turnitin.

**Students with Disabilities:** Rutgers University welcomes students with disabilities into all of the University's educational programs. To receive consideration for reasonable accommodations, a student with a disability must contact the appropriate disability services office at the campus where you are officially enrolled, participate in an intake interview, and provide documentation: <https://ods.rutgers.edu/students/documentation-guidelines>. If the documentation supports your request for reasonable accommodations, your campus's disability services office will provide you with a Letter of Accommodations. Please share this letter with your instructors and discuss the accommodations with them as early in your courses as possible. To begin this process, please complete the registration form on the ODS web site at: <https://ods.rutgers.edu/students/registration-form>.

**Anticipated Grading (subject to change)**

**Midterm: 100**  
**Final: 300**

Pre-Quiz Harassment and Discrimination	20
Forum 1: Getting to Know Your Classmates:	20
Forum 2: <i>Lipphardt v. Durango</i>	60
Forum 3: Investigation and Interview	60
Forum 4: Evaluating Evidence	60
Forum 5: "Bombshell" Film Analysis	60
Forum 6: Witness Identification and Reliability	60
Forum 7: Union Member/Shop Steward Rights	120

**WEEKLY COURSE SCHEDULE:**

**Week One: May 30 to June 5**  
**Course overview, Introductions**

**Read:** Course Canvas Site and review syllabus (feel free to read ahead)

**View:**

- Prof. Katz Welcome Video
- How to Read a Case (and understand what it means), Jennifer Rosa, Michigan State University College of Law
- Information Literacy and Avoiding Plagiarism, Julie Peters

**Assignment:**

- **Forum 1: Introductions**
- **Sexual Harassment and Discrimination Pre-quiz**

**Week Two: June 6 to June 12**

**Introduction to Discrimination and Harassment Law**

- Overview of legal frameworks (e.g., Title VII, ADA, ADEA)
- Definitions and types of discrimination and harassment

**Read:**

- England, Essential Guide, Introduction and Chapter One and Two
- "Court Role and Structure"
- "Filing a Lawsuit"
- What is Harassment? EEOC
- Types of Discrimination, EEOC
- "Remedies for Employment Discrimination, EEOC"

**View**

- Anatomy of a Lawsuit, Prof. James Cooney, Esq.

### **Week Three: June 13 to June 19**

#### **Fundamentals of the Investigation Process**

- Principles of conducting fair and impartial investigations
- Role of the investigator and the investigation team
- Planning and preparation for an investigation

#### **Read:**

- Pfadenhauer, Chapters, 1, 2 and 3
- Guerin, Chapter 1, Overview
- Guerin, Chapter 5, Investigating Discrimination
- Guerin, Chapter 6, Investigating Harassment

#### **Assignment:**

- **Forum 2: Lipphardt v. Durango Steakhouse of Brandon** Read case and reply to case questions.

### **Week Four: June 20 to June 26**

#### **Conducting Investigatory Interviews and Interview Techniques**

- Effective communication skills
- Interviewing complainants, respondents, and witnesses
- Handling difficult situations and emotions

#### **Read:**

- Guerin, Chapter 2, Getting Started; pp. 85-94, 170-175, 221-228.
- England, Chapter 5, Investigating Complaints

#### **Assignment:**

- **Forum 3: Investigation and Interview Exercise** For this week's forum, you will read a hypothetical and decide how (or whether) to investigate the situation. Discuss who you will interview and what information you need from each of them.

### **Week Five: June 27 to July 3**

#### **Evidence Collection and Analysis**

- Types of evidence in discrimination and harassment investigations
- Techniques for gathering, preserving, and analyzing evidence
- Documenting findings and maintaining confidentiality

#### **Read:**

- England, Chapter 3, Policies Prohibiting Harassment and Discrimination
- Guerin, Chapter 3, Gather Information
- *Jeperson v. Harrah's Operating Co., Inc.*

#### **Assignment:**

- **Forum 4: Evaluate the Evidence:** Review collected evidence to decide whether the facts are disputed or undisputed and whether you can decide the case from

the collected evidence.

### **Week Six: July 4 to July 10**

#### **Case study of discrimination and harassment allegations**

**Read:** Fox's internal analysis of sexual harassment complaints

**View:**

- Watch the film "Bombshell: Bombshell is a dramatization of the high-profile sexual harassment scandal that rocked Fox News in 2016. The movie focuses on three women, each at different stages in their careers, who endured sexual harassment by Fox News founder Roger Ailes. Their courageous actions eventually contributed to his removal from the company.
- Video of Megan Kelly and other Fox News anchors discussing Bombshell

**Assignment:**

- **Forum 5:** After watching "Bombshell" and the video answer the discussion questions.

### **Week Seven: July 11 to July 17**

- **Midterm Exam**

### **Week Eight: July 18 to July 24**

#### **Assessing Credibility and Making Determinations**

- Factors influencing credibility assessments
- Resolving conflicts and inconsistencies
- Making findings of fact and drawing conclusions

**Read:**

- EEOC.GOV, Credibility Determinations
- England, Chapter 6, Documentation
- Guerin, Chapter 4, Make and Document Your Decision
- Sennewald, Tsukayama, Investigatory Interviews, Types of Lies

**Assignment:**

- **Forum 6: Witness Identification and Reliability**

### **Week Nine: July 25 to July 31**

#### **Reporting and Documentation**

- Writing clear, concise, and objective investigation reports
- Presenting findings to stakeholders
- Documenting remedial actions and follow-up measures

**Read:**

- England, Chapter Four, Make and Document Your Decision

### **Week Ten: August 1 to August 7**

**Unions and Investigatory Interviews**

- Weingarten Rights, Loudermill due process rights prior to termination, and Garrity rights against self-incrimination
- The rights of the Union Representatives in Investigatory Meetings
- The Union's Duty of Fair Representation

**Assignment:**

- **Forum 7: Union Member and Shop Steward Rights Hypotheticals**

**Week Eleven: August 8 to August 14**

- **Final Exam**